



THE ATTORNEY GENERAL  
OF TEXAS

Gerald C. Mann

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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Hon. Tom C. King  
State Auditor and  
Efficiency Expert  
Austin, Texas

Opinion No. O-1663  
Re: Authorization of institutions  
of higher learning to expend moneys  
for any purpose in which a "legis-  
lator's party" could be embraced.

Dear Sir:

We acknowledge receipt of your letter of November  
2, 1939, the body of which reads as follows:

"The audited accounts of one of the state  
institutions of higher learning for the fiscal  
year just ended show an expenditure, from funds  
derived from institutional receipts, in the  
amount of \$624.00, for a 'legislators' party'.  
This represents expenses incurred in entertain-  
ing a group of legislators on a week-end visit  
to the school.

"Your attention is directed to Article III,  
Section 48 of the Texas Constitution, and I re-  
spectfully request your opinion on the following  
questions:

"(1) Was any school granted authority to  
spend moneys for any purpose in which this party  
could be embraced?

"(2) If such a grant of authority was made,  
was it violative of the provisions above referred  
to, and/or any other controlling law?"

The statutes contained in Chapters 1 to 10, inclusive,  
of Title 49, Vernon's Texas Statutes, apply to institutions of  
higher learning. An examination of the statutes therein con-  
tained reveals no authority for the expenditure of funds derived  
from institutional receipts for the purpose set out in your opin-  
ion request. Article 2654d, Ch. 9a, supra, states that the gov-  
erning boards of the various institutions of higher learning  
shall have control of certain funds "in carrying out the functions  
of an educational institution." The expenditure under considera-  
tion could not be termed a function of an educational institution.

Hon. Tom C. King, page 2 (0-1663)

Chapter 444 of the Acts of the 45th Legislature. Regular Session, makes appropriation for the support and maintenance of State institutions of higher learning. Section 2 (a) of the act provides "that all balances in the institutional funds of the several State institutions named in this act . . . are hereby appropriated for the support, maintenance, operation and improvement of said State institutions during each of the said fiscal years, respectively." Subsection 3 of the general provisions of this act contains the following provision:

"Said governing boards are authorized to use out of the proceeds of said receipts and funds, in accordance with the provisions of this act, such amounts as they shall deem necessary for the support, maintenance, operation and improvement of said institutions."  
(Underscoring ours.)

It is clear from a casual examination of this appropriation bill that the Legislature had no intention of authorizing an expenditure for any purpose other than the maintenance, operation or improvement of the State institutions of higher learning. Since we therefore answer your first question in the negative, it becomes unnecessary to consider the second.

APPROVED JAN 12, 1940  
/s/ W. F. Moore  
FIRST ASSISTANT ATTORNEY GENERAL

Yours very truly  
ATTORNEY GENERAL OF TEXAS

APPROVED: OPINION COMMITTEE  
BY: BWB, CHAIRMAN

By /s/ Ross Carlton  
Ross Carlton, Assistant

RC:RS:wb